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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,242	02/06/2004	Patrick A. McKee	5820.646	8624

30589 7590 11/16/2006

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EXAMINER

ROBINSON, HOPE A

ART UNIT	PAPER NUMBER
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1652

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,242

Applicant(s)

MCKEE ET AL.

Examiner

Hope A. Robinson

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 3-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/29/06</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Application Status

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1652.
2. Applicant's response to the Office Action mailed July 13, 2006 on August 18, 2006 is acknowledged.
3. Claims 1-21 are pending. Claims 1-2 are under examination.

Withdrawn-Specification Objection

4. Previous objections to the specification are withdrawn by virtue of submission of an amendment.

Withdrawn- Abstract Objection

5. Previous objection to the abstract is withdrawn by virtue of submission of an amendment.
Correction is required.

Withdrawn-Sequence Compliance Objection

6. The instant application complies with the sequence rules.

Information Disclosure Statement

7. The Information Disclosure Statement filed on September 29, 2006 has been received and entered. The references cited on the PTO-1449 Form have been considered by the examiner and a copy is attached to the instant Office action. However, note that the EP reference has been lined through, because the reference was not found in the instant application. It is noted that two copies of WO 97/34927A was provided. Applicant is urged to resubmit the reference for consideration.

Maintained-Claim Rejections - 35 USC 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

8. Claims 1-2 remain rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-2 are drawn to an alpha2-antiplasmin protein, which reads on a product of nature. The claims should be amended to indicate the hand of the inventor, for example the insertion of "isolated" or "purified" in connection with the protein to identify a product not found in nature (see MPEP 2105).

Maintained-Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Ludwig Institute For Cancer Research (WO 97/34927, 25 September 1997).

The reference discloses a sequence that is identical to the claimed SEQ ID NO:1 (N-terminus) and SEQ ID NO:4 (internal sequence) with a 100% sequence identity. In addition, the reference discloses a dimeric form of the claimed protein. Therefore, the limitations of the claim is met by the reference.

Response to Arguments

10. The response filed on August 18, 2006 has been considered, however, is not fully persuasive. With regard to the rejection under 35 U.S.C. 101, Applicant states that the claims have been amended to recite "purified", however, no such amendment was received as the claims remain as "originally presented". Thus, the rejection remains. With regard to the art rejection, applicant state that the cited prior art reference does not teach all the limitations of the claim. Note that the present claim language is open "comprising" thus the reference can have additional embodiments not presented in the claims. In addition, the structure disclosed in the art is 100%

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identical to the claimed structure, thus, would inherently possess the claimed function. Thus, the rejection remains.

Conclusion

11. No claims are allowable.

12. Applicant's amendment necessitated the new/modified ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy, can be reached at (571) 272-0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hope Robinson, MS 

Patent Examiner

11/11/06

HOPE ROBINSON
PRIMARY EXAMINER